

Small Business Administration

§ 120.621

§ 120.611 Pools backing Pool Certificates.

(a) *Pool characteristics.* As set forth in the Program Guide, each Pool must have:

(1) A minimum number of guaranteed portions of loans;

(2) A minimum aggregate principal balance of the guaranteed portions;

(3) A maximum percentage of the Pool which an individual guaranteed portion may constitute;

(4) A maximum allowable difference between the highest and lowest note interest rates;

(5) A maximum allowable difference between the remaining terms to maturity of the loans in the Pool;

(6) A minimum weighted average maturity at Pool formation; and

(7) A maximum allowable difference between the highest and lowest Net Rate on the guaranteed portions that are placed in a WAC Pool.

(b) *Adjustment of Pool characteristics.* SBA may adjust the Pool characteristics periodically based upon program experience and market conditions.

(c) *Increments of guaranteed portion.* If the amount of the guaranteed portion of an individual 7(a) guaranteed loan is more than \$500,000, a Pool Assembler may elect to divide the guaranteed portion into increments of \$500,000 and one increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any guaranteed portion in a Pool to be not more than \$500,000. Only one increment from a loan to a specific borrower may be included in a Pool.

[61 FR 3235, Jan. 31, 1996, as amended at 73 FR 67102, Nov. 13, 2008; 76 FR 63546, Oct. 12, 2011]

§ 120.612 Loans eligible to back Certificates.

(a) Pool Certificates are backed by the SBA guaranteed portions of loans comprising the Pool. An Individual Certificate is backed by the SBA guaranteed portion of a single loan. Any such loan must:

(1) Be current as of the date the Pool is formed or the individual guaranteed portion of a loan is initially sold in the Secondary Market;

(2) Be guaranteed under the Act; and

(3) Meet such other standards as SBA may determine to be necessary for the successful operation of the Secondary Market program.

(b) The loans that back a Pool must meet the SBA requirements in effect at the time the Pool is formed.

§ 120.613 Secondary Participation Guarantee Agreement.

When a Lender wants to sell the guaranteed portion of a loan, it enters into a Secondary Participation Guarantee Agreement ("SPGA") with SBA and the prospective purchaser. The terms of sale between the Lender and the purchaser cannot require the Lender or SBA to repurchase the guaranteed portion of the loan except in accordance with the terms of the SPGA. Before execution of the SPGA, the Lender must:

(a) Submit to FTA a copy of the proposed SPGA, the note, and such other documents as SBA may require;

(b) Except for export working capital loans, disburse to the Borrower the full amount of the loan; and

(c) Pay SBA all guarantee fees relevant to the loan in full.

[61 FR 3235, Jan. 31, 1996, as amended at 68 FR 51680, Aug. 28, 2003]

THE SBA GUARANTEE OF A CERTIFICATE

§ 120.620 SBA guarantee of a Pool Certificate.

(a) *Extent of Guarantee.* SBA guarantees to a Registered Holder the timely payment of principal and interest installments and any prepayment or other recovery of principal to which the Registered Holder is entitled. If the Borrower of a loan in a Pool backing the Certificates does not make a required installment payment, SBA, through the FTA, will make advances to maintain the schedule of interest and principal payments to the Registered Holders.

(b) *SBA guarantee backed by full faith and credit.* SBA's guarantee of the Pool Certificate is backed by the full faith and credit of the United States.

§ 120.621 SBA guarantee of an Individual Certificate.

(a) *Extent of SBA guarantee.* With respect to Individual Certificates, SBA